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NOTES ON THE COMMITTEE OF REVIEW

Donald J. DeFronzo, Member Committee of Review
October 31, 2007

In 1961 President John F. Kennedy, in his Special Message to Congress on Ethics in Government, said:

> "No responsibility of government is more fundamental than the responsibility of maintaining the highest standards of ethical behavior by those who conduct the public business. There can be no dissent from the principle that all officials must act with unwavering integrity, absolute impartiality, and complete devotion to the public interest. This principle must be followed not only in reality but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter."

Over the course of American history official disciplinary action against members of Congress, or in state legislatures, has been rare. In the Connecticut State Senate it is unprecedented. Article 3 Section 13, of the Connecticut Constitution, empowers the Senate to discipline its own members, but offers no guidance in terms of actionable standards or procedure.

Common sense would suggest that disciplinary action against a member of the Legislature be tied to behavior which compromises the use of public office, undermines the public's trust in the impartial use of authority or cast serious doubt on the ability of the office holder to perform his or her duties in an objective and independent manner and in the best interest of the public.

Behavior which constitutes a misdemeanor violation of law, yet is unrelated to the performances of one's official duties may not constitute an actionable offense for disciplinary purposes. However, in some cases reviewed by this Committee, isolated misdemeanor actions did result in reprimand or censure.

The acts of a member of the Legislature, no matter how unsavory they might appear, if unrelated to use of public office, may warrant some type of official discipline, but not expulsion. For example, a member of the Legislature who commits a misdemeanor offense, i.e. concealing the existence of a will, drinking while driving or cheating on a game of chance, but has not compromised the use of their office, is not typically subject to disciplinary action by his or her peers.

This is borne out by experience at the Congressional level and in other states as well. In Congress, censure has been tied to misconduct relating to official duties, non cooperation with Committees of the House or unofficial acts of a kind likely to bring the House into disrepute. (H.R. Report No. 27 90th Cong 2 Sess at 24-26 In Re Adam Clayton Powell (1967) and expulsion to charges of treason and felony activity involving the taking of bribes or gifts in return for favorable legislative activity or advocacy.

In other states reprimand and censure have generally been tied to personal acts such as solicitation of prostitution, possession of illegal substances, professional misconduct, attempts to obtain privileged treatment, intimidation, campaign finances abuses and inappropriate conduct with staff members, interns or pages.

Similar to expulsion actions at the Congressional level, expulsion at the State Legislative level is a very serious matter, usually but not exclusively, the result of extortion, bribery and vote selling. Other offenses demonstrating a loss of personal integrity, i.e. federal income tax evasion, voter fraud and embezzlement may also warrant expulsion.

Experience also suggests, however, that as the actionable behavior becomes more egregious, the level of contemplated discipline is increased proportionately from reprimand to censure to expulsion.

In our system of government the personal integrity of a public official and the public's perception of such, are fundamentally important. Allegations that a member of the legislature has compromised his or her office, although rare, must be taken seriously. Good judgment and fair play would dismiss charges rooted in unsubstantiated or politically motivated accusations.

In those cases where the actionable offense is a felony related to public office, or a clear loss of personal integrity, as in the case with bribery, vote selling, extortion, tax evasion, etc., a strong justification for expulsion exists. However, the question to be asked is, "is it the offense, or the consequence of the offense that justifies disciplinary action?" It is easy to conclude that a legal transgression of the type described above justifies expulsion because the erosion of public trust is inherent in the nature of the crime itself. Isn't it likely though, that a loss of public trust commensurate to that of type that occurs when a felony offense exists can result from an action, or series of actions, which while not felonious in nature, still has the effect of seriously eroding public confidence in the individual or institution? After all the Senate tribunal is not a court of law and it is not charged with passing judgment on Senator DeLuca's conduct purely in a legal sense. More importantly, the Committee's responsibility is to safeguard the integrity of the State Senate against the loss of public trust and, in so doing, determine if conduct is injurious in that respect.

At present the Committee deals with the case of State Senator Louis DeLuca who pled guilty to a misdemeanor violation of Conspiracy to Commit Threatening in the Second Degree. The affidavit of the arresting officer states that Senator DeLuca sought the assistance of "Businessman A" to deal with a domestic abuse situation in his family. This request disclosed what the investigation officer termed "a close and confidential relationship" between Businessman A and Senator DeLuca and resulted in Businessman A arranging for a visit to be paid to the Senator's estranged family member. At the time Senator DeLuca stated that "he believed Businessman A was on the fringes of organized crime."

While these actions are disturbing and difficult to comprehend, the misdemeanor offense of Conspiracy to Commit Threatening In The Second Degree, in and of itself, may not warrant serious Senate discipline. What is more disturbing and opens the door to potential disciplinary action are three distinct decisions on the part of Senator DeLuca that call into question the use of his office.

In ***Section 12*** **of the Arrest Warrant** it seems clear that Senator DeLuca did not provide complete and truthful testimony to the Federal Bureau of Investigations (FBI) agent. He was not charged on any offense concerning this action, however, the act of providing false information to a federal law enforcement official is illegal and may be punishable by up to five years in prison, a fine or both.

In ***Section 11*** **of the Affidavit**, when discussing ways in which the Senator could aid Mr. Galante, Senator DeLuca states "I'll keep my eyes open. And understand that anything that could hurt "Businessman A", I'll try to blunt it as best I can." In response to the undercover agent's request that Senator DeLuca help influence any proposed legislation that could have a negative impact on Businessman A, Senator DeLuca stated: "I can't influence it at this point because it's out of my hands, but if it gets to the point where I have appointments, I can influence it that way. You know, if somebody, if it's a commission that needs to be in that, that, is gonna be a watchdog on CRRA and make recommendations then I'll make an appoi….generally I get an appointment." In the FBI transcript dated ***September 28, 2006***, Senator DeLuca was asked why he told the under cover employee (UC) that he was always looking out for legislation that would hurt ***XXXXX***. He responded by saying that ***XXXXX*** is a friend and contributes money to republican PACS so DeLuca gives him favorable treatment. These comments, and others in the document, suggest that the nature of Senator DeLuca's relationship with Mr. Galante was intimate and mutually protective. It is especially troubling, when at this point in time; (***September 7, 2006***), news of Mr. Galante's indictment on federal price fixing charges in the trash hauling industry was well known.

Senator DeLuca's offer of assistance takes on added significance due to the fact that anticipated reforms of the trash hauling industry were being considered by Governor Rell for submission to the Legislature in ***February 2007***.

Finally, in ***Section 11*** **of the Affidavit**, it is reported that Senator DeLuca refused $5,000 in cash from an undercover agent posing as an associate of Mr. Galante. Subsequently, it has been confirmed that Senator DeLuca did not report that bribe offer to appropriate law enforcement officials. The cash payment was clearly related to an intended quid pro quo—cash for political protection, the latter of which was offered by Senator DeLuca without the benefit of payment. When asked by the FBI why he didn't report the bribe offer Senator DeLuca said, "he did not report the bribe the UC attempted to give him to anyone." He said he didn't report it because he didn't know who to report it to"—even though the FBI had been at his house just hours before the attempted bribe.

Failing to provide a completely truthful statement to investigating officers, and the offer of political protection to an indicted businessman acknowledged to be on the fringes of organized crime are disturbing actions. Of equal concern is the failure to report a bribe intended to influence the official action of a high ranking member of the Connecticut State Senate. Several issues arise: What is the implication of these actions from the perspective of the public's confidence in its elected officials? Do these actions compromise Senator DeLuca and the institution of the Connecticut State Senate? Do they cast doubt in the ability of Senator DeLuca to perform his duties in an impartial manner and in the best interests of the public? Do these actions constitute transgressions of a serious nature and ultimately, are they actionable for the purposes of discipline?

While Senator DeLuca pled guilty to conspiracy to Commit Threatening in the Second Degree, in so doing he avoided more serious charges. Specifically, on pages 4 and 5 of Senator DeLuca's Sentencing Transcript (June 4, 2007), it is made clear that Senator DeLuca initially provided false statements to investigators. It is also made clear that the U.S. Attorney's office participated in the plea agreement by dropping its false statement claims in exchange for Senator DeLuca's guilty plea on State charges. It is significant, and perhaps an indication of the onerous nature of latent federal charges, that Senator DeLuca waived his statute of limitation rights which otherwise would have constituted an "absolute bar" to state prosecution.

By making this agreement Senator DeLuca contained his legal problems largely to those relating to a "personal matter" and prevented any further examination of his relationship with Mr. Galante which may be the driving motivation for disciplinary action. Formal charges that would reflect more directly on his official position or office were side stepped via a legal maneuver. In as much as the approach serves to obfuscate Senator DeLuca's

relationship with Mr. Galante and actions that might more directly reflect on his official position, it is a strategy that raises significant questions.

The clear and unambiguous statements of Senator DeLuca at his meetings with the undercover agent can only be taken at face value. From the standpoint of undermining the public's confidence, these comments are incriminating. No reasonable person could conclude anything less. Offers of assistance designed to "blunt" action unfavorable to Galante business interests remove any veil of impartiality and they subordinate the public interest to that of an indicted businessman with ties to organized crime.

***Section 11* of the Affidavit** indicates that during the September 7, 2006 meeting between Senator DeLuca and an undercover agent, Senator DeLuca refused a $5,000 cash payment. The context of that conversation demonstrates that the payment was intended to secure or preserve favorable legislative action on matters that might affect Galante business interests. Senator DeLuca refused the payment, but offered his services nevertheless. Had he accepted the cash and agreed to provide his assistance, disciplinary action would be all but a foregone conclusion.

That Senator DeLuca offered his services, but declined a cash payment may be consolation for some, but undoubtedly raises serious questions in terms of maintaining public confidence and trust in Senator DeLuca and in the exercise of his authority. While some may characterize Senator DeLuca's actions as a lapse in judgement, it is far more than that. The public can take little solace in that argument, or in the fact that Senator DeLuca refused cash to influence his decisions. One might even argue that once Senator DeLuca secured Mr. Galante's assistance to pay Mr. Colella a visit, he was already indebted to him and obligated to do his bidding. His relationship with Galante and his willingness to compromise the impartiality of his office, even while declining a bribe offer, fuels the cynicism that undermines public trust and diminishes the institution of the Connecticut State Senate.

If the Committee of Review is to conscientiously exercise its responsibility and protect the integrity of the Connecticut State Senate, it can not limit its determination of actionable standards only to those that are tied to serious misdemeanors or felonies. Offenses independent of legal transgressions have serious implications on public confidence as well, and cannot be ignored.

The misdemeanor to which Senator DeLuca pled does not appear to warrant disciplinary action largely because it was essentially a personal matter unrelated to his office. Likewise there is no felony charge pending that demands disciplinary action. However, the cumulative impact of Senator DeLuca's actions, his initial lack of honesty, his willingness to protect Mr. Galante's illegal business activities and his failure to report a bribe offer directly related to the exercise of his official duties has an undeniably significant and negative effect on the public's confidence in State Government in general, and the State Senate in particular.

In setting a course for disciplinary actions the committee need not be guided by rigid legal standards, or by standards established in other jurisdictions. The committee aspires to a higher standard, for those who are elected, and who have the privilege to serve, are obligated always, to maintain and elevate the public's confidence in the institutions of democratic government.

The Committee does not believe Senator DeLuca is a bad man or a corrupt individual, but his judgment and actions in the case now under consideration demands strong action. If the Committee is to establish a precedent on which the conduct of future State Senators is to be measured, it should be a high one, one which will serve to restore the public trust and defines actions and offenses which compromise that trust as the most serious to be considered, and ones that warrant the most severe penalty—expulsion.